

# **Exhibit 1**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re: Methyl Tertiary Butyl Ether ("MTBE")  
Products Liability Litigation

Master File C.A. No.  
1:00-1898 (SAS)  
MDL 1358

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**This Document Relates To:**

*City of Fresno v. Chevron U.S.A., Inc., et al.*,  
Case No. 04-Civ-04973

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**DEFENDANTS DUKE ENERGY MERCHANTS, LLC, DUKE ENERGY TRADING  
AND MARKETING, LLC, DUKE ENERGY MERCHANTS CALIFORNIA, INC. AND  
NORTHRIDGE PETROLEUM MARKETING, U.S.'S RESPONSES AND OBJECTIONS  
TO INTERROGATORY NUMBERS 5, 8, 9 AND 11 OF PLAINTIFF CITY OF  
FRESNO'S FIRST SET OF INTERROGATORIES TO DEFENDANTS**

Pursuant to Federal Rule of Civil Procedure 33, Defendants Duke Energy Merchants, LLC, Duke Energy Trading and Marketing, LLC, Duke Energy Merchants California, Inc. and Northridge Petroleum Marketing, U.S. (the "Duke Defendants") hereby submit their Answers and Objections to Interrogatory Numbers 5, 8, 9 and 11 of Plaintiff City of Fresno's First Set of Interrogatories to Defendants. These Answers and Objections rely upon information that is currently available or known to the Duke Defendants after investigation during the time allotted for responding. The Duke Defendants reserve the right to, and intend to, supplement, amend or revise these Answers and Objections as additional information becomes available or comes to their attention.

**GENERAL OBJECTIONS**

1. The Duke Defendants object to the instructions and definitions set forth in Plaintiff's First Set of Interrogatories to Defendants to the extent that they deviate or purport to impose requirements other than or in addition to those required by the Federal Rules of Civil

17. These General Objections apply to each of Plaintiff City of Fresno's First Set of Interrogatories to Defendants as though restated fully therein. To the extent the Duke Defendants assert objections to individual interrogatories, those objections apply equally to any subparts of the interrogatory.

18. The Duke Defendants' provision of information notwithstanding the objectionable nature of any of the Plaintiff City of Fresno's First Set of Interrogatories to Defendants is not to be construed as an admission that the information is relevant, as a waiver of the Duke Defendants' general or specific objections, or as an agreement that future requests for similar discovery will be treated in a similar manner.

#### **ANSWERS TO INTERROGATORIES**

Interrogatory No. 5: IDENTIFY all jobbers, franchisees and/or distributors to whom YOU supplied MTBE gasoline within the RELEVANT GEOGRAPHIC AREA since 1979.

a. State the dates that YOU supplied MTBE gasoline to each jobber, franchisee, and/or distributor that YOU identified.

Response to Interrogatory No. 5:

The Duke Defendants incorporate by reference, as if set forth in full herein, its General Objections set forth above. The Duke Defendants also object to the terms "jobbers" and "distributors" as vague and ambiguous. For purposes of this response, the Duke Defendants interpret the terms "jobbers" and "distributors" as the customers of Duke Energy Merchants, LLC and Northridge Petroleum Marketing. The Duke Defendants further object to this interrogatory as it seeks information beyond December 31, 2003, which is the date that California phased MTBE out of gasoline sold in the State. Subject to and without waving the foregoing objections, the Duke Defendants respond as follows: Duke Energy Trading and Marketing, LLC and Duke Energy Merchants California, Inc. were not ever involved in any way in the refining, marketing, blending, distribution, storage, purchasing or sale of gasoline. Exhibit

A to these responses lists customers and sale dates from January 1, 2001 to December 31, 2003 for Duke Energy Merchants, LLC. Exhibit A also lists customers and sale dates from June 1996 to December 31, 2000. To the best of the Duke Defendants' knowledge, records showing sales between 1979 and June 1996, to the extent any sales were made, are not in the possession or control of the Duke Defendants and may no longer exist. To the best of the Duke Defendants' knowledge, the sales of gasoline reflected in Exhibit A met California Air Resources Board requirements and therefore may have contained MTBE as an oxygenate additive. However, the Duke Defendants are presently unable to determine what amount or percentage of gasoline sales described in Exhibit A actually contained MTBE.

Interrogatory No. 8: IDENTIFY each terminal at which YOU have or had a position which served the RELEVANT GEOGRAPHIC AREA since 1979.

- a. State the dates of during [sic] which YOU maintained a position for each terminal YOU identified.

Response to Interrogatory No. 8:

The Duke Defendants incorporate by reference, as if set forth in full herein, its General Objections set forth above. The Duke Defendants also object to the term "have or had a position" to the extent that it is vague and ambiguous. The Duke Defendants further object to this interrogatory as it seeks information beyond December 31, 2003, which is the date that California phased MTBE out of gasoline sold in the State. Subject to and without waving the foregoing objections, the Duke Defendants respond as follows: Northridge Petroleum Marketing held an account at the Kinder Morgan Terminal, 4149 S. Maple Ave., Fresno, CA 93725 until December 31, 2000. On January 1, 2001, Duke Energy Merchants, LLC assumed ownership of this account and held this account until the end of 2003, when it stopped the sales of gasoline in the State of California.

# **EXHIBIT A**

**to**

**DEFENDANTS DUKE ENERGY MERCHANTS, LLC, DUKE ENERGY TRADING AND MARKETING, LLC, DUKE ENERGY MERCHANTS CALIFORNIA, INC. AND NORTHRIDGE PETROLEUM MARKETING, U.S.'S RESPONSES AND OBJECTIONS TO INTERROGATORY NUMBERS 5, 8, 9 AND 11 OF PLAINTIFF CITY OF FRESNO'S FIRST SET OF INTERROGATORIES TO DEFENDANTS**

**December 2, 2008**

**Sales From Kinder Morgan Fresno Terminal****Customer by sale dates**

<b>Customer</b>	<b>Sale Dates</b>
Beneto, Inc.	6/11/1996
	6/12/1996
	6/17/1996
	7/9/1996
	7/10/1996
	7/30/1996
	7/31/1996
	8/15/1996
	8/19/1996
	8/20/1996
	8/22/1996
	8/29/1996
	9/5/1996
	9/7/1996
	9/12/1996
	9/15/1996
	9/19/1996
	9/22/1996
	10/1/1996
	10/6/1996
	10/7/1996
	10/9/1996
	10/10/1996
	10/25/1996
	11/6/1996
	11/10/1996
	11/11/1996
	11/19/1996
	11/23/1996
	11/25/1996
	12/4/1996
	12/6/1996
	12/13/1996
	2/6/1997
	2/25/1997
	3/6/1997
	3/12/1997
	4/10/1997
	4/17/1997
	4/20/1997
	5/4/1997
	5/7/1997
	5/14/1997
	5/30/1997
	6/28/1997
	7/23/1997
	7/29/1997
	8/5/1997

Customer	Sale Dates
Guthrie Petroleum In	3/30/1999
	4/12/1999
	4/21/1999
	4/29/1999
	5/25/1999
	6/24/1999
	7/21/1999
	8/31/1999
	10/19/1999
	12/2/1999
	2/8/2000
	5/26/2000
	7/10/2000
	7/11/2000
	7/17/2000
	11/2/2000
	12/14/2000
	6/19/2001
	6/25/2001
	8/22/2001
	6/10/2002
	6/30/2002
	7/11/2002
Intercity Petroleum	6/10/1996
	6/11/1996
	6/12/1996
	6/13/1996
	6/17/1996
	6/18/1996
	6/19/1996
	6/21/1996
	6/24/1996
	7/7/1996
	7/8/1996
	7/9/1996
	7/10/1996
	7/16/1996
	7/20/1996
	7/22/1996
	7/24/1996
	7/30/1996
	7/31/1996
	8/1/1996
	8/3/1996
	8/9/1996
	8/12/1996
	8/13/1996
	8/15/1996
	8/16/1996
	8/19/1996
	8/26/1996

Customer	Sale Dates
Intercity Petroleum	8/28/1996
	8/29/1996
	8/31/1996
	9/3/1996
	9/6/1996
	9/7/1996
	9/11/1996
	9/16/1996
	9/18/1996
	9/19/1996
	9/21/1996
	9/24/1996
	9/25/1996
	10/1/1996
	10/3/1996
	10/4/1996
	10/7/1996
	10/12/1996
	10/15/1996
	10/22/1996
	11/1/1996
	11/4/1996
	11/5/1996
	11/7/1996
	11/9/1996
	11/11/1996
	11/19/1996
	11/20/1996
	11/21/1996
	12/5/1996
	12/17/1996
	12/20/1996
	12/24/1996
	12/30/1996
	2/6/1997
	2/20/1997
	3/3/1997
	3/5/1997
	4/7/1997
	4/17/1997
	4/24/1997
	4/28/1997
	4/30/1997
	5/4/1997
	5/5/1997
	5/6/1997
	5/7/1997
	5/8/1997
	5/14/1997
	5/16/1997
	5/21/1997



Customer	Sale Dates
Intercity Petroleum	5/23/1997
	5/29/1997
	5/30/1997
	6/4/1997
	6/5/1997
	6/7/1997
	6/9/1997
	6/11/1997
	6/12/1997
	7/3/1997
	7/8/1997
	7/9/1997
	7/10/1997
	7/11/1997
	7/17/1997
	7/23/1997
	8/2/1997
	8/4/1997
	8/8/1997
	8/13/1997
	8/14/1997
	8/18/1997
	9/3/1997
	9/6/1997
	9/12/1997
	9/15/1997
	9/25/1997
	9/26/1997
	10/24/1997
	10/30/1997
	11/7/1997
	11/8/1997
	11/10/1997
	11/14/1997
	11/18/1997
	11/24/1997
	12/2/1997
	12/3/1997
	12/4/1997
	12/6/1997
	12/12/1997
	12/30/1997
	1/6/1998
	1/12/1998
	1/13/1998
	1/24/1998
	1/26/1998
	2/17/1998
	2/25/1998
	3/3/1998
	3/16/1998

Customer	Sale Dates
Intercity Petroleum	4/5/1998
	4/6/1998
	4/7/1998
	4/10/1998
	4/13/1998
	5/7/1998
	5/13/1998
	5/14/1998
	5/18/1998
	5/28/1998
	6/10/1998
	6/17/1998
	6/19/1998
	6/24/1998
	6/26/1998
	6/29/1998
	7/8/1998
	7/9/1998
	7/10/1998
	7/17/1998
	7/20/1998
	7/21/1998
	7/25/1998
	8/3/1998
	8/4/1998
	8/7/1998
	8/13/1998
	8/18/1998
	8/22/1998
	8/26/1998
	8/27/1998
	9/3/1998
	9/8/1998
	9/11/1998
	9/16/1998
	9/19/1998
	9/21/1998
	9/29/1998
	9/30/1998
	10/2/1998
	10/6/1998
	10/12/1998
	10/15/1998
	10/19/1998
	10/22/1998
	10/29/1998
	10/31/1998
	11/7/1998
	11/11/1998
	11/12/1998
	11/17/1998

Customer	Sale Dates
Intercity Petroleum	11/24/1998
	12/3/1998
	12/11/1998
	12/15/1998
	12/18/1998
	12/30/1998
	1/5/1999
	1/13/1999
	1/30/1999
	2/2/1999
	2/13/1999
	2/16/1999
	2/17/1999
	2/22/1999
	2/23/1999
	3/2/1999
	3/17/1999
	3/18/1999
	3/24/1999
	4/9/1999
	4/13/1999
	4/14/1999
	4/20/1999
	4/23/1999
	5/6/1999
	5/13/1999
	5/17/1999
	5/18/1999
	5/26/1999
	6/22/1999
	7/22/1999
	8/18/1999
	8/27/1999
	8/31/1999
	9/4/1999
	9/11/1999
	9/22/1999
	9/23/1999
	9/27/1999
	10/7/1999
	10/8/1999
	10/13/1999
	10/14/1999
	10/19/1999
	10/23/1999
	10/27/1999
	10/28/1999
	11/9/1999
	11/11/1999
	11/13/1999
	12/6/1999

Customer	Sale Dates
Intercity Petroleum	12/13/1999
	12/18/1999
	12/29/1999
	1/10/2000
	1/13/2000
	1/14/2000
	1/18/2000
	1/20/2000
	2/10/2000
	2/14/2000
	3/25/2000
	3/27/2000
	3/28/2000
	3/30/2000
	4/5/2000
	4/12/2000
	4/24/2000
	5/5/2000
	5/11/2000
	5/13/2000
	5/15/2000
	5/16/2000
	5/17/2000
	5/22/2000
	5/25/2000
	5/30/2000
	7/6/2000
	7/10/2000
	7/11/2000
	7/12/2000
	7/26/2000
	9/7/2000
	9/11/2000
	9/12/2000
	9/14/2000
	9/15/2000
	10/30/2000
	10/31/2000
	11/2/2000
	11/7/2000
	11/8/2000
	11/29/2000
	12/5/2000
	12/14/2000
	1/8/2001
	1/31/2001
	2/1/2001
	2/19/2001
	5/1/2001
	5/24/2001
	6/2/2001

Customer	Sale Dates
Intercity Petroleum	6/4/2001
	6/14/2001
	6/20/2001
	6/28/2001
	10/11/2001
	10/12/2001
	11/4/2001
	12/18/2001
	1/3/2002
	2/27/2002
ITL, Inc.	3/6/1997
	3/12/1997
	3/27/1998
	1/26/1999
	2/23/1999
	2/19/2003
	2/23/2003
	3/5/2003
J. A. Fischer, Inc.	6/11/1996
	6/12/1996
	6/13/1996
	6/17/1996
	6/18/1996
	6/19/1996
	6/20/1996
	6/24/1996
	6/25/1996
	7/2/1996
	7/7/1996
	7/8/1996
	7/9/1996
	7/14/1996
	7/17/1996
	7/19/1996
	7/20/1996
	7/22/1996
	7/28/1996
	8/1/1996
	8/3/1996
	8/7/1996
	8/8/1996
	8/12/1996
	8/13/1996
	8/15/1996
	8/19/1996
	8/20/1996
	8/23/1996
	8/26/1996
	8/27/1996
	8/30/1996
	9/1/1996

Customer	Sale Dates
Silvas Oil Co., Inc.	6/13/2002
	6/17/2002
	7/11/2002
	8/4/2002
	8/29/2002
	9/22/2002
	10/2/2002
	10/17/2002
	10/27/2002
	11/5/2002
	11/7/2002
	11/12/2002
	11/13/2002
	11/17/2002
	11/30/2002
	1/15/2003
	1/16/2003
	2/9/2003
	2/20/2003
	2/25/2003
	3/5/2003
	3/6/2003
	3/11/2003
	4/7/2003
	4/28/2003
	5/13/2003
	5/14/2003
	5/21/2003
	5/29/2003
	6/17/2003
	6/24/2003
	6/29/2003
	9/1/2003
	9/21/2003
	10/20/2003
	10/28/2003
	11/16/2003
	12/14/2003
	12/22/2003
Southern Counties Oi	8/12/1996
	8/13/1996
	8/25/1996
	9/10/1996
	9/14/1996
	9/22/1996
	9/25/1996
	10/4/1996
	10/22/1996
	10/25/1996
	11/1/1996
	11/4/1996

Customer	Sale Dates
Southern Counties Oi	11/5/1996
	11/10/1996
	11/11/1996
	11/12/1996
	11/19/1996
	11/21/1996
	11/24/1996
	11/25/1996
	12/3/1996
	12/8/1996
	12/9/1996
	12/11/1996
	12/14/1996
	12/16/1996
	12/17/1996
	12/19/1996
	12/22/1996
	12/27/1996
	1/11/1997
	1/13/1997
	1/14/1997
	1/17/1997
	1/20/1997
	1/21/1997
	1/23/1997
	2/1/1997
	2/3/1997
	2/6/1997
	2/9/1997
	2/11/1997
	2/12/1997
	2/13/1997
	2/15/1997
	2/18/1997
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	2/22/1997
	2/24/1997
	2/25/1997
	3/3/1997
	3/5/1997
	3/6/1997
	3/9/1997
	3/11/1997
	3/12/1997
	3/25/1997
	4/2/1997
	4/4/1997
	4/7/1997
	4/9/1997
	4/10/1997
	4/11/1997

Customer	Sale Dates
Southern Counties Oi	4/15/1997
	4/20/1997
	4/21/1997
	4/24/1997
	4/30/1997
	5/4/1997
	5/8/1997
	5/14/1997
	5/30/1997
	6/7/1997
	6/9/1997
	6/10/1997
	6/21/1997
	7/3/1997
	7/23/1997
	7/28/1997
	7/31/1997
	8/3/1997
	8/4/1997
	8/5/1997
	8/9/1997
	8/12/1997
	8/14/1997
	8/17/1997
	8/26/1997
	8/31/1997
	9/2/1997
	9/4/1997
	9/9/1997
	9/14/1997
	9/15/1997
	9/16/1997
	9/22/1997
	9/28/1997
	9/29/1997
	9/30/1997
	10/6/1997
	10/8/1997
	10/12/1997
	10/13/1997
	10/25/1997
	10/29/1997
	10/30/1997
	11/9/1997
	11/11/1997
	11/14/1997
	1/7/1998
	3/15/1998
	4/24/1998
	6/1/1998
	6/10/1998



Customer	Sale Dates
Southern Counties Oi	6/17/1998
	7/18/1998
	8/6/1998
	8/7/1998
	10/14/1998
	3/29/1999
	4/12/1999
	5/6/1999
	6/14/1999
	6/15/1999
	6/23/1999
	7/2/1999
	7/21/1999
	10/19/1999
	10/21/1999
	12/27/1999
	12/28/1999
	1/13/2000
	3/28/2000
	5/1/2000
	5/30/2000
	8/4/2000
	8/8/2000
	8/11/2000
	8/28/2000
	9/30/2000
	11/27/2000
	1/4/2001
	2/19/2001
	4/17/2001
	5/1/2001
	5/17/2001
	8/22/2001
	10/11/2001
	11/4/2001
	3/10/2002
	4/16/2002
	4/25/2002
	5/2/2002
	5/6/2002
	5/7/2002
	5/12/2002
	5/14/2002
	6/10/2002
	6/11/2002
	6/12/2002
	6/30/2002
	7/7/2002
	7/16/2002
	7/25/2002
	7/28/2002

Customer	Sale Dates
Southern Counties Oi	7/29/2002
	8/7/2002
	8/29/2002
	8/31/2002
	9/17/2002
	9/22/2002
	10/16/2002
	10/27/2002
	11/5/2002
	11/6/2002
	11/7/2002
	11/10/2002
	11/12/2002
	11/20/2002
	11/26/2002
	12/16/2002
	12/31/2002
	1/6/2003
	1/14/2003
	1/16/2003
	1/19/2003
	2/9/2003
	2/19/2003
	2/23/2003
	2/26/2003
	2/27/2003
	2/28/2003
	3/5/2003
	3/6/2003
	3/12/2003
	3/13/2003
	3/19/2003
	3/23/2003
	3/31/2003
	4/6/2003
	4/24/2003
	4/27/2003
	4/28/2003
	5/13/2003
	5/14/2003
	5/15/2003
	5/29/2003
	5/31/2003
	6/12/2003
	6/15/2003
	6/17/2003
	6/24/2003
	6/29/2003
	6/30/2003
	7/2/2003
	7/13/2003

Customer	Sale Dates
Southern Counties Oi	7/28/2003
	7/29/2003
	7/31/2003
	9/1/2003
	9/7/2003
	9/21/2003
	10/8/2003
	10/13/2003
	10/28/2003
	11/30/2003
Stan Boyett & Son, I	2/12/1998
	2/14/1998
	2/19/1998
	3/9/1998
	3/12/1998
	3/15/1998
	3/16/1998
	3/17/1998
	4/1/1998
	4/5/1998
	4/8/1998
	4/12/1998
	4/13/1998
	4/21/1998
	7/5/1998
	8/18/1998
	9/8/1998
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	10/25/1998
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	10/31/1998
	11/2/1998
	11/5/1998
	11/8/1998
	11/10/1998
	11/17/1998
	11/18/1998
	11/24/1998
	11/26/1998
	12/1/1998
	12/16/1998
	1/5/1999
	1/6/1999
	1/19/1999
	1/20/1999
	1/31/1999
	2/2/1999
	2/8/1999